

**STORAGE NAME:** h1197.sgc.doc  
**DATE:** April 17, 2001

**HOUSE OF REPRESENTATIVES  
COUNCIL FOR SMARTER GOVERNMENT  
ANALYSIS**

**BILL #:** HB 1197  
**RELATING TO:** Legislative Oversight of Governmental Programs  
**SPONSOR(S):** Representatives Berfield and others  
**TIED BILL(S):** None

**ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:**

- (1) STATE ADMINISTRATION YEAS 4 NAYS 0
  - (2) FISCAL POLICY & RESOURCES YEAS 12 NAYS 0
  - (3) COUNCIL FOR SMARTER GOVERNMENT YEAS 11 NAYS 0
  - (4)
  - (5)
- 

**I. SUMMARY:**

The Legislative Auditing Committee (Committee) as a standing joint committee of the Legislature was created in 1967. The responsibilities of the Committee are broad and affect many areas of government in Florida.

The Committee's main responsibility is to provide continuous oversight of government through the auditing and evaluation activities of the Auditor General and the Office of Program Policy Analysis and Government Accountability. The Committee is authorized to investigate any matter within the scope of an audit or evaluation and is granted subpoena power in connection with such investigations.

This bill transfers and reorganizes statutory provisions regarding the Legislative Auditing Committee, the Auditor General, and the Office of Program Policy Analysis and Government Accountability.

This bill also, in part, revises the scope, purpose, and goals of performance audits conducted by the Auditor General; revises the qualifications for the position of Auditor General; removes the designation that OPPAGA is a unit of the Auditor General; and makes technical and conforming changes.

This bill does not appear to have a fiscal impact on state or local governments.

There are four amendments traveling with the bill. One amendment by the Council for Smarter Government appears to raise single subject and germanity issues.

Please see Section VI, "Amendments or Committee Substitute Changes," of this analysis for details.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

***Legislative Auditing Committee***

Chapter 67-470, L.O.F., created s. 11.40, F.S., and established the Legislative Auditing Committee (Committee) as a standing joint committee of the Legislature.

The responsibilities of the Committee are broad and affect many areas of government in Florida. The Committee's main responsibility is to provide continuous oversight of government through the auditing and evaluation activities of the Auditor General and through s. 11.51, F.S., the Office of Program Policy Analysis and Government Accountability (OPPAGA). The Committee is authorized to investigate any matter within the scope of an audit or evaluation and is granted subpoena power in connection with such investigations. The Committee also has oversight over local governments' financial condition through s. 218.503, F.S., the Local Government Financial Emergencies Act.

The Committee's major responsibilities for the Auditor General, OPPAGA, and the Office of the Public Counsel are as follows:

*Auditor General*

- Appoints the Auditor General;
- Reviews of the Auditor General's performance; and,
- Directs the Auditor General to conduct audits.

*OPPAGA*

- Appoints the Director of OPPAGA;
- Reviews the director's performance; and,
- Directs the office to review programs.

*Office of the Public Counsel*

- Appoints the Public Counsel;
- Reconfirms the Public Counsel; and,
- Authorizes the Public Counsel to contract for attorneys or expert witnesses.

## **Auditor General**

Chapter 67-470, L.O.F., also created s. 11.42, F.S., and created the position of Legislative Auditor (changed to the Auditor General in 1969).

The Auditor General is charged with various responsibilities throughout the law, including:

- Conducting audits of state agencies, universities, community colleges, district school boards;
- Reviewing state agency internal audit functions;
- Reviewing county, city and special district audit reports issued by independent certified public accountants;
- Reviewing the Department of Revenue's monitoring of county ad valorem assessment procedures;
- Monitoring the state's automated management accounting system (FLAIR);
- Auditing electronic data processing systems and data centers as assigned by the Auditor General; and,
- Overseeing statewide electronic data processing and information systems.

## **Office of Program Policy Analysis and Government Accountability (OPPAGA)**

Chapter 94-249, L.O.F., the Government Performance Accountability Act of 1994, that also involved statewide implementation of performance-based program budgeting (also known as PB2), created OPPAGA as a unit of the Auditor General within that major accountability initiative. OPPAGA was given the responsibility to perform program evaluation and justification reviews and performance reviews of state and local entities and state and local programs. OPPAGA provides technical assistance to state agencies and to the Legislature in developing PB2 measures and proposals.

OPPAGA also has duties regarding school district performance reviews and the Best Financial Management Practices Review of school districts. The Best Financial Management Practices Review program provides school districts the opportunity to request a review of their financial management practices. If the district's practices meet standards developed by OPPAGA and the Auditor General, then a district may receive a "Seal of Best Financial Management" that would remain in effect for five years.

### **C. EFFECT OF PROPOSED CHANGES:**

See "Section by Section Analysis."

### **D. SECTION-BY-SECTION ANALYSIS:**

**Sections 7, 20, 23, 28, 31-36, 45, 47, 57-58, 60, 63, 78-79, 90-91, 93-94, 97, 99, 103, and 111-112, make conforming changes, clarify language, or make technical changes.**

#### **Section 1 (Pages 11-13):**

Creates ss. 11.40(3), (4), and (5), F.S., relating to the Legislative Auditing Committee.

Authorizes the Legislative Auditing Committee (Committee) to direct the Auditor General and the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct audits, reviews, and examinations of governmental entities and certain other entities.

Authorizes the Committee to conduct investigations and exercise the powers of subpoena.

Also, authorizes the Committee to hold hearings concerning a lack of compliance by local governmental entities, district school boards, charter schools, or charter technical schools with financial reporting requirements within ss. 11.45(5)-(7), 218.32(1), or 218.38, F.S.

**Section 2** (Pages 13-15):

Amends s. 11.42, F.S., relating to the Auditor General. Revises the qualifications for the position of Auditor General, so that 10 years of accounting or auditing related experience is required, instead of 10 years of experience with a governmental agency or with the private sector, or a combination thereof.

Revises the employment restrictions applicable to staff of the Auditor General. Exempts the Auditor General from ss. 11.25(1), on salaries and expenditures not subject to control of executive agencies, and 11.26, F.S., on legislative employees; employment restrictions.

**Section 3** (Pages 15-46):

Significantly reorganizes and amends s. 11.45, F.S., relating to definitions, duties, authorities, reports, and rules of the Auditor General.

DEFINITIONS

Provides a definition for the term "audits". Revises the definition for the terms "county agency", "financial audit", and "state agency".

DUTIES

Reorganizes duties and transfers various duties of the Auditor General from other statutes to this section. Revises the scope, purpose, and goals of the performance audit of the local government financial reporting system conducted biennially by the Auditor General. Requires the Auditor General to perform a follow-up review eighteen months after the release of his or her audit of a local governmental entity.

AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS

Transfers various provisions of the Auditor General's authority located throughout the Florida Statutes to this section. Restates the Auditor General's authority to conduct audits of the Florida Development Finance Corporation provided in s. 288.9616, F.S. Authorizes the Auditor General to promote the building of competent and efficient accounting and internal audit organizations in governmental entities. Authorizes the Auditor General to provide consulting services related to financial and accounting systems.

SCHEDULING AND STAFFING OF AUDITS

Requires the Auditor General to complete financial audits within 9 months following the end of the fiscal year or within the timeline provided by the Legislative Auditing Committee. Authorizes the Auditor General to temporarily or indefinitely postpone certain audits. Authorizes the Auditor General to direct staff to conduct audits that his or her office has the authority to audit. Transfers the public records exemption related to the Auditor General's workpapers from s. 11.45(7)(b), F.S. Transfers various requirements of the Auditor General to this section.

### PETITION FOR AN AUDIT BY THE AUDITOR GENERAL

Transfers the audit of a municipality conducted by the Auditor General from s. 11.45(3)(b), F.S.

### REQUEST BY A LOCAL GOVERNMENTAL ENTITY FOR AN AUDIT BY THE AUDITOR GENERAL

Deletes the provisions related to the Public Records Modernization Trust Fund. Transfers various provisions regarding audit reports to this section.

### AUDITOR GENERAL REPORTING REQUIREMENTS

Requires the Auditor General to notify the Legislative Auditing Committee of any local governmental entity, district school board, or charter school that fails to comply with ss. 218.39, 11.45(7)(b), and 218.415, F.S. Requires the Auditor General to include non-audited local governmental entities within the annual report submitted to the presiding officers of the legislature. Deletes a provision related to performance audits by the Auditor General. Deletes an Auditor General reporting requirement related to a special district with problems concerning debt policy or practices. Deletes the deadline for completion of audits conducted by the Auditor General. Transfers various provisions relating to the Auditor General and the Legislative Auditing Committee to this section. Deletes certain provisions within audit reports by the Auditor General. Deletes the requirement that agency heads provide certain reports to the Legislative Auditing Committee. Deletes a follow-up report provided by OPPAGA and the Auditor General.

### RULES OF THE AUDITOR GENERAL

Transfers the Auditor General's authority to promulgate rules for certain audits from s. 11.45(3)(a)10., F.S.

### OTHER GUIDANCE PROVIDED BY THE AUDITOR GENERAL

Transfers the Auditor General's authority to develop a compliance supplement for audits of district school boards from s. 11.45(3)(a)10., F.S. Transfers the authority of certain governmental entities to contract for financial audits and performance audits to ss. 230.23 and 240.3631, F.S. Transfers a reporting requirement of the Auditor General relating to special districts to s. 11.45(7), F.S. Transfers the authority for the Auditor General to conduct audits of direct-support organizations and citizen support organizations to s. 11.45(3)(a)4., F.S.

#### **Section 4 (Pages 47-48):**

Amends s. 11.47, F.S., to add OPPAGA as an entity that must have records made available by officers who are subject to examinations. Provides criminal penalties for the director or staff of OPPAGA for failure to provide information or for making a false report. Provides criminal and other penalties for persons refusing to furnish information to OPPAGA.

#### **Section 5 (Pages 48-50):**

Amends s. 11.51, F.S., to revise the requirements of OPPAGA. Removes the designation that OPPAGA is a unit of the Auditor General. Deletes the requirement that the Auditor General must provide administrative support to OPPAGA. Adds responsibilities for OPPAGA that were moved from s. 11.45, F.S. Conforms the Florida Statutes to reflect the separation of OPPAGA from the Auditor General.

Provides that OPPAGA's workpapers and notes are not a public record. Currently, the Auditor General's workpapers and notes are exempt from public disclosure. Accordingly, because OPPAGA is under the Auditor General, OPPAGA's workpapers and notes are also exempt.

This bill separates OPPAGA from the Auditor General. It is unclear whether the public records exemption carries forward, or whether a separate bill creating a new public records exemption just for OPPAGA's materials is necessary.

**Section 6** (Pages 50-53):

Amends s. 11.511, F.S., to remove outside employment restrictions for OPPAGA staff. Revises the criteria for the postponement of OPPAGA projects.

**Section 8** (Page 57):

Amends s. 14.29(15), F.S., to require audits of the Florida Commission on Community Service's direct-support organization to be in accordance with s. 215.98, F.S.

**Section 9** (Pages 57-59):

Amends s. 20.055(5)(f) & (g), F.S., relating to Agency Inspectors General. Requires agency inspectors general to report to the Legislative Auditing Committee within 6 months of a report on the state agency issued by the Auditor General or OPPAGA.

**Section 10** (Page 59):

Amends s. 20.23(6), F.S., to require the Department of Transportation to implement recommendations made by OPPAGA.

**Section 11** (Pages 59-60):

Amends s. 20.2551(3), F.S., relating to citizen support organizations (CSO). Requires audits of the CSO to be in accordance with s. 215.98, F.S.

**Sections 12 and 13** (Pages 60-61):

Amends ss. 24.105(13)(c), and s. 24.120(4) F.S., to add OPPAGA to the list of entities authorized to access confidential records of the Department of the Lottery, and to the list of entities that have access to the Department of the Lottery's facilities.

**Section 14** (Pages 61-62):

Amends s. 27.3455(1) and (2)(a), F.S., relating to counties' annual statement of revenues and expenditures. Deletes the requirement that each county submit this statement to the Auditor General. Corrects a cross-reference.

**Section 15** (Page 62):

Amends s. 30.51(5), F.S., to delete the format of how the sheriff remits fees and commissions to the county.

**Section 16** (Pages 62-63):

Amends s. 39.202(2)(k), F.S., to add OPPAGA as an entity that is authorized to access records related to child abuse and neglect.

**Section 17** (Page 63):

Amends s. 110.109(1), F.S., to add OPPAGA to the list of entities that will receive reports issued by the Department of Management Services relating to agency personnel administration and management reviews.

**Section 18** (Pages 63-66):

Amends s. 112.313(9)(a), F.S., to add the director of OPPAGA to the list of persons subject to post-employment restrictions.

**Section 19** (Pages 66-67):

Amends s. 112.324(7)(a) and (c), F.S., to add the director and staff of OPPAGA to the list of persons subject to consequences regarding a possible breach of public trust.

**Section 21** (Page 68):

Amends s. 116.07, F.S., to require sheriffs and clerks to keep account books in accordance with s. 218.33, F.S., rather than in a manner prescribed by the Auditor General.

**Section 22** (Pages 68-69):

Amends s. 119.07(6), F.S., to add OPPAGA to the list of entities that have access to exempt public records.

**Section 24** (Pages 69-70):

Amends s. 122.08(7), F.S., to delete a certification by the Auditor General related to a shortage in a state or county official or employee's retirement account.

**Section 25** (Pages 70-71):

Amends s. 125.01(1)(x), F.S., to delete the requirement that the Auditor General must retain county audit reports for a specified period of time.

**Section 26** (Page 71):

Amends s. 145.022(1), F.S., to delete the requirement that copies of resolutions adopted by a board of county commissioners, relating to salaries, be filed with the Department of Banking and Finance and the Auditor General.

**Section 27** (Page 71):

Amends s. 145.14(2), F.S., to delete the requirement that copies of resolutions adopted by a board of county commissioners, relating to salaries of certain county officials, must be filed with the Department of Banking and Finance and the Auditor General.

**Section 29** (Pages 72-73):

Amends s. 154.331(2)(d), F.S., to delete the requirement that financial records of independent health or mental health care special districts shall be available for review for audit by state auditors.

**Section 30** (Pages 73-74):

Amends s. 163.356(3)(c), F.S., to delete the requirement that community redevelopment agencies annually file a report of its activities with the Auditor General.

**Section 37** (Pages 78-79):

Amends s. 189.428(5)(f) and (g), F.S., to revise the criteria to be utilized by a local government conducting an oversight review of a special district.

**Section 38** (Page 79):

Amends s. 193.074, F.S., to add OPPAGA to the list of entities that are required to maintain confidentiality of certain records relating to property deeds.

**Section 39** (Pages 79-80):

Amends s. 195.084, F.S., to add OPPAGA to the list of entities that have access to records of the Department of Revenue and are required to maintain confidentiality of such records.

**Section 40** (Pages 80-81):

Amends s. 195.096(7), F.S., to clarify the Auditor General's responsibilities associated with a performance audit of the administration of ad valorem tax laws by the Department of Revenue.

**Section 41** (Pages 81-82):

Amends s. 196.101(4)(c), F.S., to add OPPAGA to the list of entities that are required to maintain confidentiality of records produced by totally and permanently disabled persons with regard to homestead exemption.

**Section 42** (Pages 82-83):

Amends s. 206.60(1)(b), F.S., relating to county tax on motor fuel. Deletes the requirement that the Department of Revenue obtain a certification from the Auditor General.

**Section 43** (Pages 83-86):

Repeals subparagraph 6. of paragraph (ff) of subsection (7) of s. 212.08, F.S., relating to a completed report by OPPAGA on whether the tax on charges for electricity or steam has an effect on retaining or attracting companies to this state.

**Section 44** (Pages 87-88):

Amends s. 213.053(6), F.S., to add the director of OPPAGA or his or her authorized agent to the list of persons that have access to authorized tax records of the Department of Revenue and are required to maintain confidentiality of such records.

**Section 46** (Page 89):

Creates s. 215.86, F.S., relating to management and systems controls of state agencies and the judicial branch.

**Section 48** (Pages 89-90):

Creates s. 215.98, F.S., to require the audits of state agency direct-support organizations and citizen support organizations to be conducted in accordance with rules promulgated by the Auditor General and the state agency that created, approved, or administers the organization.

**Section 49** (Pages 90-91):

Amends s. 216.177(1), F.S., to add OPPAGA to the list of entities that receive the summary of outstanding state debt and the truth in bond statement.

**Section 50** (Pages 91-92):

Amends s. 216.178(2), F.S., to add OPPAGA to the list of entities that receive a certain budget report.

**Section 51** (Pages 92-93):

Amends s. 216.292(3), F.S., to add the director of OPPAGA to the list of persons that receive reports of budget revisions.

**Section 52** (Pages 93-94):

Amends s. 218.31(1), and creates s. 218.31(15)-(18), F.S. Deletes a cross-reference within the definition of the term "Local governmental entity." Provides for a definition of the terms "Auditor", "County agency", "Financial audit", and "Management letter".

**Section 53** (Pages 94-97):

Amends s. 218.32(1), F.S., to require each local governmental entity that is not required to provide for an audit in accordance with s. 218.39, F.S., to submit an annual financial report to the Department of Banking and Finance. Requires the Department of Banking and Finance, in consultation with the Auditor General, to prescribe the format of the annual financial reports. Deletes the penalty provisions for failure to submit an annual financial report to the Department of Banking and Finance. Transfers those provisions to s. 11.40, F.S.

**Section 54** (Page 97):

Amends s. 218.33(2), F.S., to revise the provisions relating to the establishment of uniform accounting practices and procedures.

**Section 55** (Pages 98-99):

Amends s. 218.38(3), F.S., to delete the penalty provisions for failure by a local governmental entity to verify certain information held by the Division of Bond Finance within the State Board of Administration. Those provisions are transferred to s. 11.40, F.S.

**Section 56** (Pages 99-105):

Creates ss. 218.39, and 218.391, F.S., to provide for annual financial audit reports of local governmental entities, district school boards, charter schools, and charter technical career centers. Requires annual financial audit of each county; any municipality with revenues or the total of expenditures and expenses in excess of \$250,000; any special district with revenues or the total of expenditures and expenses in excess of \$100,000; each district school board; each charter school; each charter technical career center; each municipality with revenues or the total of expenditures and expenses between \$100,000 and \$250,000 that has not been subject to a financial audit during the two preceding years; and each special district with revenues or the total of expenditures and expenses between \$50,000 and \$100,000 that has not been subject to a financial audit during the two preceding years. Provides other requirements for the format and procedures for audits and auditor selection for local governmental entities, district school boards, charter schools, and charter technical career centers.

**Section 59** (Pages 106-112):

Amends s. 228.093(3)(d), F.S., to add OPPAGA as an entity that is authorized to receive access to personally identifiable records or reports of a pupil or student without consent of the pupil or the pupil's parent.

**Section 61** (Page 112):

Amends s. 229.8021(4), F.S., to require audits of direct-support organizations created by the State Board of Education to be conducted in accordance with s. 215.98, F.S.

**Section 62** (Page 113):

Creates paragraphs (l) and (m) of s. 230.23(10), F.S., to authorize school boards to employ an internal auditor and to contract with an independent certified public accountant to conduct financial and performance audits of the district's accounts and records.

**Section 64** (Pages 114-115):

Amends s. 237.40(4), F.S., to require direct-support organizations created by the Department of Education to be audited in accordance with rules promulgated by the Auditor General and by the Commissioner of Education. Requires the audit to be completed within 9 months after fiscal year end.

**Section 65** (Pages 115-116):

Amends s. 240.214(1), F.S., to re-assign a project relating to Board of Regents accountability reports from the Auditor General to OPPAGA. Conforms the Florida Statutes to reflect the separation of OPPAGA from the Auditor General.

**Section 66** (Pages 116-117): Amends s. 240.299(5), F.S., to require direct-support organizations created by the Board of Regents to be audited in accordance with rules promulgated by the Auditor General and the Board of Regents. Requires the audit to be completed within 9 months after fiscal year end. Authorizes OPPAGA to conduct audits of the direct-support organizations.

**Section 67** (Page 117):

Amends s. 240.2995(5), F.S., to require university health support organizations to be annually audited in accordance with s. 240.299(4), F.S.

**Section 68** (Pages 117-118):

Amends s. 240.311(8)(c), F.S., to add OPPAGA as an entity that is authorized to receive supplemental data from not-for-profit corporations receiving funds pursuant to this section.

**Section 69** (Pages 118-119):

Amends s. 240.331(6), F.S., to require direct-support organizations created by the State Board of Community Colleges to be audited in accordance with rules promulgated by the Auditor General and the State Board of Community Colleges. Requires the audit to be completed within 9 months after fiscal year end. Authorizes OPPAGA to conduct audits of the direct-support organizations.

**Section 70** (Pages 119-120):

Amends s. 240.3315(6), F.S., to require the statewide community college direct-support organization to be annually audited in accordance with s. 240.331, F.S.

**Section 71** (Page 120):

Creates s. 240.3631, F.S., to authorize district boards of trustees of community colleges to contract with an independent certified public accountant to conduct audits of their accounts and records.

**Section 72** (Pages 120-123):

Amends s. 240.512(2)(d) and (8)(b), F.S., to add OPPAGA to the list of entities that are authorized to receive supplementary data from the H. Lee Moffitt Cancer Center and Research Institute. Adds OPPAGA to the list of entities authorized to have access to confidential information.

**Section 73** (Pages 123-124):

Amends s. 240.5285(3), F.S., to require the direct-support organization established by the Florida Atlantic University Broward to be annually audited in accordance with s. 240.299(4), F.S.

**Section 74** (Pages 124-126):

Amends s. 240.551(22), F.S., to require the Florida Prepaid College Program's direct-support organization to be annually audited in accordance with s. 215.98, F.S.

**Section 75** (Pages 126-127):

Amends s. 240.609(6), F.S., to add OPPAGA as an entity that is authorized to examine the records of the Florida Postsecondary Endowment Grants Program administered by the Department of Education.

**Section 76** (Pages 127-128):

Amends s. 240.711(2)(h), F.S., to require the John and Mable Ringling Museum of Art's direct-support organization to be annually audited in accordance with s. 240.299(4), F.S.

**Section 77** (Page 128):

Amends s. 250.115(6), F.S., to require the Department of Military Affairs' direct-support organization to be annually audited in accordance with s. 215.98, F.S.

**Section 80** (Page 129):

Amends s. 266.0018(7), F.S., to require the direct-support organization authorized by the Historic Pensacola Preservation Board of Trustees to be annually audited in accordance with s. 215.98, F.S.

**Section 81** (Page 130):

Amends s. 267.17(3), F.S., to require citizen support organizations to be annually audited in accordance with s. 215.98, F.S.

**Section 82** (Pages 130-131):

Amends s. 288.1226(6), F.S., to require audits of the Florida Tourism Industry Marketing Corporation to be in accordance with s. 215.98, F.S.

**Section 83** (Page 131):

Amends s. 288.1229(5), F.S., to require the direct-support organization authorized by the Office of Tourism Trade and Economic Development (OTTED) to be annually audited in accordance with s. 215.98, F.S.

**Section 84** (Pages 131-132):

Amends s. 288.809(4), F.S., to require the Florida Intergovernmental Relations Foundation to be annually audited in accordance with s. 215.98, F.S.

**Section 85** (Pages 132-133):

Amends s. 288.9517, F.S., to add OPPAGA as an entity authorized to examine the technology development board within Enterprise Florida, Inc.

**Section 86** (Page 133):

Amends s. 290.0056(5), F.S., to delete a requirement that enterprise zone development agencies annually file a report of their activities with the Auditor General.

**Section 87** (Pages 134-135):

Amends s. 290.015, F.S., to re-assign a project related to the Florida Enterprise Zone Act from the Auditor General to OPPAGA. Conforms the Florida Statutes to reflect the separation of OPPAGA from the Auditor General.

**Section 88** (Page 135):

Amends s. 296.17, F.S., to add OPPAGA as an entity authorized to audit and inspect the Veterans' Domiciliary Home of Florida.

**Section 89** (Pages 135-136):

Amends s. 296.41, F.S., to add OPPAGA as an entity authorized to audit and inspect the Veterans' Nursing Home of Florida.

**Section 92** (Pages 138-139):

Amends s. 320.08058(9)(b), F.S., to require that audits of the Florida Sports Foundation, a direct-support organization, be conducted in accordance with s. 215.98, F.S.

**Section 95** (Pages 143-144):

Amends s. 334.0445(4), F.S., to add OPPAGA to the list of report recipients for a Department of Transportation report relating to the model career service classification and compensation plan.

**Section 96** (Page 144):

Amends s. 339.406(5), F.S., to require the contract between the Department of Transportation and the transportation corporation to provide for annual audits of the corporation and to provide authority to the Department and the Auditor General to conduct audits of the corporation.

**Section 98** (Pages 148-149):

Amends s. 372.0215(3), F.S., to require citizen support organizations to be annually audited in accordance with s. 215.98, F.S.

**Section 100** (Pages 150-151):

Amends s. 373.507, F.S., to delete the requirement that water management districts and basins are to undergo annual financial audits. Those districts and basins are required under s. 218.39, F.S., to provide for annual financial audits. Provides for the distribution of the districts' and basins' audit reports.

**Section 101** (Page 151):

Amends s. 402.73(9), F.S., to delete a requirement that the Auditor General include specific reference to systems and controls related to financial integrity in the developmental services Medicaid waiver service system within the audit of the Department of Children and Family Services.

**Section 102** (Pages 151-152):

Amends s. 403.1826(8), F.S., to add OPPAGA as an entity authorized to access the records of the Department of Environmental Protection.

**Section 104** (Pages 152-154):

Amends s. 403.864(2), F.S., to delete the requirement that the Auditor General assist in the development of a public water supply accounting program to be used by the Departments of Health and Environmental Protection.

**Section 105** (Page 154):

Amends s. 411.01(4)(m), F.S., to delete the Auditor General's authority to conduct audits of the Florida Partnership for School Readiness. Transfers the Auditor General's authority to s. 11.45(3)(a), F.S.

**Section 106** (Pages 154-155):

Amends s. 411.221(2), F.S., to add OPPAGA reports to the list of items to be utilized by the Department of Education and the Department of Children and Families in their prevention and early assistance plan.

**Section 107** (Page 155):

Amends s. 413.615(11), F.S., to require the Florida Endowment for Vocation Rehabilitation to be annually audited in accordance with s. 215.98, F.S.

**Section 108** (Pages 155-156):

Amends s. 413.87(1), F.S., to require the Occupational Access and Opportunity Corporation to be annually audited in accordance with s. 215.98, F.S.

**Section 109** (Page 156):

Amends s. 413.88, F.S., to delete the Auditor General's authority to conduct audits of the Occupational Access and Opportunity Commission. Transfers the Auditor General's authority to s. 11.45(3)(a), F.S.

**Section 110** (Pages 156-157):

Amends s. 446.609(12) & (13)(b), F.S., to require the Florida Endowment Foundation for Jobs for Florida's Graduates to be annually audited in accordance with s. 215.98, F.S. Corrects a reference to the Office of Economic and Demographic Research.

**Section 113** (Page 159):

Amends s. 550.125(2)(c), F.S., to delete a requirement that the Auditor General conduct audits at the request of the Division of Pari-mutuels of the Department of Business and Professional Regulation. Provides the Auditor General and OPPAGA with the authority to conduct audits or examinations of the books and records of any permitholder.

**Section 114** (Pages 159-161):

Amends s. 570.903(1) and (3), F.S., to provide for the establishment of a direct-support organization to provide assistance to the Florida Agriculture in the Classroom Program, Florida State Collection of Arthropods, Friends of the Florida State Forests Program of the Division of Forestry, and the Forestry Arson Alert Program. Requires the direct-support organizations to be annually audited in accordance with s. 215.98, F.S.

**Section 115** (Page 161):

Amends s. 601.15(10)(d), F.S., to add OPPAGA as an entity authorized to access the records of the Department of Citrus.

**Section 116** (Page 161):

Amends s. 616.263(2), F.S., to replace the requirement that the Auditor General conduct annual audits of the Florida State Fair Authority with providing the authority to conduct audits of the Fair Authority. The Fair Authority is audited annually by a private independent certified public accountant.

**Section 117** (Page 162):

Amends s. 657.008(4), F.S., to delete a reporting requirement to the Auditor General relating to allotment of space in a governmental building.

**Section 118** (Pages 162-163):

Amends s. 744.708(5), F.S., to add OPPAGA as an entity authorized to examine the Statewide Public Guardianship Office.

**Section 119** (Page 163):

Amends s. 943.25(3), F.S., to delete the term "annually" to conform to the changes made in s. 11.45, F.S., by ch. 99-333, L.O.F. Section 11.45, F.S., as amended by ch. 99-333, L.O.F., states in part, that "[t]he Auditor General shall, at least every other year, make operational audits of the accounts and records of all state agencies, as defined in this section."

**Section 120** (Page 163):

Amends s. 943.2569, F.S., relating to annual audits of criminal justice selection centers. Requires audits of the centers to be in accordance with s. 11.45, F.S.

**Section 121** (Pages 163-164):

Amends s. 944.512(2)(c), F.S., to add that certain costs associated with imprisonment shall be determined and certified by the prosecuting attorney and the imprisoning entity and subject to review by the Auditor General. Previously, those costs were determined by the Auditor General.

**Section 122** (Page 164):

Amends s. 944.719(3), F.S., to add OPPAGA to the list of entities that have access to records of private vendors under contract with the Department of Corrections to construct, lease, or operate a private correctional facility.

**Section 123** (Pages 164-165):

Amends s. 944.802(3), F.S., to require the direct-support organization approved by the Department of Corrections to be annually audited in accordance with s. 215.98, F.S.

**Section 124** (Page 165):

Amends s. 946.31, F.S., to delete a requirement that the Auditor General make a determination relating to a surplus in the Correctional Work Program Trust Fund.

**Section 125** (Pages 165-167):

Amends s. 948.15(3), F.S., to add OPPAGA to the list of entities that have access to records of private entities that provide services for the supervision of misdemeanor probationers.

**Section 126** (Pages 167-168):

Amends s. 957.07, F.S., to replace the Auditor General with the Department of Corrections relating to cost-saving requirements.

**Section 127** (Page 168):

Amends s. 957.11, F.S., to re-assign a project relating to the privatization of prisons from the Auditor General to OPPAGA. Conforms the Florida Statutes to reflect the separation of OPPAGA from the Auditor General.

**Section 128** (Pages 168-169):

Amends s. 960.002(4), F.S., to require the direct-support organization authorized by the Governor to be annually audited in accordance with s. 215.98, F.S.

**Section 129** (Pages 169-170):

Amends s. 985.311(1)(a), F.S., to add OPPAGA to the list of report recipients for a Department of Juvenile Justice report relating to the performance of assessment and treatment services.

**Section 130** (Page 170):

Amends s. 985.4145(6), F.S., to require the direct-support organization under contract with the Department of Juvenile Justice to be annually audited in accordance with s. 215.98, F.S.

**Section 131** (Pages 170-171):

Amends s. 985.416(3), F.S., to re-assign a project related to innovation zones from the Auditor General to OPPAGA. Conforms the Florida Statutes to reflect the separation of OPPAGA from the Auditor General.

**Section 132** (Page 171):

Repeals:

- Section 11.149, F.S., which provides an exemption to the Legislative Auditing Committee and the Auditor General related to ss. 11.143, 11.147, 11.241, 11.242(6), 11.243(3), 11.25(1), and 11.26, F.S.
- Section 11.143, F.S., which relates to standing and select committees and their powers.
- Section 11.147, F.S., which relates to the Office of Legislative Services (OLS). Among other things, this section requires joint committees and other units of the Legislature to be governed by the joint rules of the Senate and the House of Representatives.

- Section 11.241, F.S., which relates to the creation of a permanent statutory revision plan under OLS.
- Section 11.242(6), F.S., which relates to awarding contracts for editorial work, printing, and to pay for such other things as authorized and performed as part of the statutory revision program under Florida Law.
- Section 11.243(3), F.S., which relates to the collection of moneys from the sale of the Florida Statutes or other publications and their deposit into the State Treasury and credited to the appropriation for legislative expense.
- Section 11.25(1), F.S., which states that the Legislature determines that the employees of the several offices, committees, and other divisions of the Legislature are and continue to be groups of employees employed by the Legislature to perform such services as may be provided by law, rules of the respective chamber, or directed by the joint committee, whichever is applicable. This exemption is transferred to s. 11.42, F.S.
- Section 11.26, F.S., which relates to legislative employees and employment restrictions. This provision is transferred to s. 11.42, F.S.
- Section 11.46, F.S., which relates to accounting procedures of governmental entities.
- Section 125.901(2)(e), F.S., which relates to audits of children's services independent special districts.
- Section 215.56005(2)(l), F.S., which relates to the Auditor General's authority to conduct audits of the Tobacco Settlement Financing Corporation. This authority is transferred to s. 11.45(3)(a), F.S.
- Section 216.2815, F.S., which relates to the Auditor General's authority to conduct audits of a nongovernmental agency, corporation, or person receiving an appropriation made by the General Appropriations Act. This authority is transferred to s. 11.45(3)(a), F.S.
- Section 218.415(23), F.S., which requires a review by the Auditor General of local governmental entities' compliance with s. 218.415, F.S. The review is transferred to s. 11.45(7)(d), F.S.
- Section 228.053(11), F.S., which relates to the Auditor General's responsibilities concerning audits of developmental research schools.
- Section 228.082(6), F.S., which relates to the Auditor General's authority to conduct audits of the Florida On-Line High School. This authority is transferred to s. 11.45(3)(a), F.S.
- Section 253.037(3), F.S., which relates to the Auditor General's responsibilities associated with performance audits of purchases of certain real property. This authority is transferred to s. 11.45(3)(a), F.S.
- Section 265.607, F.S., which relates to audits of local cultural sponsoring organizations. According to staff with the Auditor General, these provisions conflict with the Florida Single Audit Act, s. 215.97, F.S.

- Section 288.906(2), F.S., which relates to the Auditor General's authority to conduct audits of Enterprise Florida, Inc., including any of its boards, advisory committees or similar groups created by Enterprise Florida, Inc. This authority is transferred to s. 11.45(3)(a), F.S.
- Section 288.9616, F.S., which relates to the Auditor General's authority to conduct audits of the Florida Development Finance Corporation or the capital development board. This authority is transferred to s. 11.45(3)(a), F.S.
- Section 298.65, F.S., which relates to the Auditor General conducting audits of water management districts at the request of the Governor.
- Section 331.419(2), F.S., which relates to a completed report by OPPAGA.
- Section 339.413, F.S., which relates to audits of transportation corporations under contract with the Department of Transportation.
- Section 348.69, F.S., which relates to audits of the Tampa-Hillsborough County Expressway Authority conducted annually by the Auditor General. The authority is annually audited by a private independent certified public accountant.
- Section 373.589, F.S., which relates to audits of water management districts.
- Section 374.987(3), F.S., which relates to audits of the Florida Inland Navigation District.
- Section 380.510(8), F.S., which relates to performance audits by the Auditor General concerning the Florida Communities Trust Program. This bill transfers this authority to s. 11.45(3)(a), F.S.
- Section 388.331, F.S., which relates to audits of counties and special districts carrying out mosquito control programs. Also, it relates to establishing a method of maintaining books and records approved by the Auditor General.
- Section 400.335, F.S., which relates to audits of trust funds and related accounts of nursing homes. This bill transfers this authority to conduct audits of these funds to s. 11.45(3)(a), F.S.
- Section 403.1837(14), F.S., which relates to the Auditor General's authority to conduct audits of the Florida Water Pollution Control Financing Corporation. This bill transfers this authority to s. 11.45(3)(a), F.S.
- Section 440.49(14)(i), F.S., which relates to the Auditor General's authority to conduct audits of the Florida Special Disability Trust Fund Financing Corporation. This bill transfers this authority to s. 11.45(3)(a), F.S.
- Section 517.1204(14), F.S., which relates to the Auditor General's authority to conduct audits of the Investment Fraud Restoration Financing Corporation. This bill transfers this authority to s. 11.45(3)(a), F.S.
- Section 570.912, F.S., which relates to the direct-support organization created to provide assistance to the Florida Agriculture in the Classroom Program.
- Section 581.195, F.S., which relates to the direct-support organization created to provide assistance to the Florida State Collection of Arthropods.

- Section 589.013, F.S., which relates to the direct-support organization created to provide assistance to the Friends of the Florida State Forests Program of the Division of Forestry.
- Section 590.612, F.S., which relates to the direct-support organization created to provide assistance to the Forestry Arson Alert Program.

**Section 133** (Page 171):

Provides that the act shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

The amendment adopted by the Council for Smarter Government, which amends s. 125.0104, F.S., raises single subject and germanity issues. See "Amendments or Committee Substitute Changes."

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

**Council for Smarter Government**

On April 17, 2001, the Council for Smarter Government adopted two amendments, and reported HB 1197, as amended, favorably.

The first amendment amends s. 125.0104(6), F.S., which requires a referendum for any ordinance authorizing certain local option tourist development taxes. This statute requires that any ordinance levying or imposing such tax be approved in a referendum election by a majority of the electors voting in such election in the county. Section 125.0104(6)(d), F.S., provides that

[i]n any case where a referendum levying and imposing the tax has been approved pursuant to this section and 15 percent of the electors in the county or 15 percent of the electors in the subcounty special district in which the tax is levied file a petition with the board of county commissioners for a referendum to repeal the tax, the board of county commissioners shall cause an election to be held for the repeal of the tax which election shall be subject only to the outstanding bonds for which the tax has been pledged.

In subsection (7) of s. 125.0104, F.S., the statute requires that the county ordinance levying and imposing the tax will automatically expire upon the later of

(a) Retirement of all bonds issued by the county for financing the same; or,

(b) The expiration of any agreement by the county for the operation or maintenance, or both, of a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum. However, nothing herein shall preclude that county from amending the ordinance extending the tax to the extent that the board of the county determines to be necessary to provide funds with which to operate, maintain, repair, or renew and replace a publicly owned and operated convention center, sports stadium, sports arena, coliseum, auditorium, or museum or from enacting an ordinance pursuant to the provisions of this section reimposing a tourist development tax, upon or following the expiration of the previous ordinance.

This amendment authorizes a county that has previously passed an ordinance authorizing such tax to continue utilizing the tax after the retirement of applicable bonds without referendum approval. The tax, after the bond commitment has been fulfilled, is intended to fund the operation and maintenance of such convention center, sports stadium, sports arena, coliseum, auditorium, or museum, whichever is applicable.

*This amendment does not appear to fall within the purview of the "relating to" clause of the bill, which states that the bill relates to "legislative oversight of governmental programs." This amendment could raise a germanity point of order, and also raise single subject concerns under Article III, section 6 of the Florida Constitution.*

The second amendment requires that the Auditor General conduct certain audits of universities.

These amendments, in addition to the amendments adopted by the Committee on State Administration and the Committee on Fiscal Policy & Resources, are traveling with the bill.

**Committee on Fiscal Policy & Resources**

On April 4, 2001, the Committee on Fiscal Policy & Resources adopted one amendment to HB 1197. The amendment addresses the annual financial reporting requirements of counties, providing that such report include the financial audit of the county as well as all financial audits of all county agencies. The amendment provides that if the board of county commissioners elects to conduct a separate audit, it must be done in a manner prescribed by the Auditor General and reported in the county audit report.

This amendment, too, is traveling with the bill.

**Committee on State Administration**

On March 29, 2001, the Committee on State Administration adopted one amendment to HB 1197. The amendment reinstates OPPAGA as a unit under the Auditor General. This amendment also removes the language that provided OPPAGA with a public records exemption for their workpapers and notes.

This amendment is traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON STATE ADMINISTRATION:

Prepared by:

Jennifer D. Krell, J.D.

Staff Director:

J. Marleen Ahearn, Ph.D., J.D.

AS REVISED BY THE COMMITTEE ON FISCAL POLICY & RESOURCES:

Prepared by:

David M. Greenbaum

Staff Director:

Greg Turbeville

**STORAGE NAME:** h1197.sgc.doc

**DATE:** April 17, 2001

**PAGE:** 22

AS FURTHER REVISED BY THE COUNCIL FOR SMARTER GOVERNMENT:

Prepared by:

Staff Director:

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Jennifer D. Krell, J.D.

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Don Rubottom